

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CASE NO. 2:12-CR-11(3) JRG-RSP
	§	
OSCAR DIAZ-MENDOZA	§	

FINDINGS OF FACT AND RECOMMENDATION ON GUILTY PLEA
BEFORE THE UNITED STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636(b), this matter has been referred by the District Court for administration of a plea of guilty under Rule 11 of the Federal Rules of Criminal Procedure.

On February 28, 2013, this cause came before the undersigned United States Magistrate Judge for a plea of guilty to an indictment charging the defendant in Count 3 with a violation of 21 U.S.C. § 841(a)(1), Possession with Intent to Distribute and Distribution of More than 5 grams of Methamphetamine. After conducting said proceeding in the form and manner prescribed by FED. R. CRIM. P. 11, the undersigned finds that:

a. the defendant, after consultation with counsel of record, has knowingly and voluntarily consented to the administration of the Guilty Plea in this cause by a United States Magistrate Judge, subject to a final acceptance and imposition of sentence by the District Judge;

b. the defendant and the government have entered into a plea agreement which has been filed and disclosed in open court pursuant to FED. R. CRIM. P. 11(c)(2);

c. the defendant is fully competent and capable of entering an informed plea, that the defendant is aware of the nature of the charges , the maximum penalties, and the consequences of the plea, and that the plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense; and

d. the defendant understands each of the constitutional and statutory rights

enumerated in Rule 11(b) and wishes to waive these rights, including the right to a trial by jury.

IT IS THEREFORE RECOMMENDED that the District Court accept the Plea Agreement and the Guilty Plea of the defendant and that Oscar Diaz-Mendoza should be finally adjudged guilty of that offense.

A party's failure to file written objections to the findings, conclusions and recommendations contained in this Report within 14 days after being served with a copy shall bar that party from *de novo* review by the district judge of those findings, conclusions and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court. FED. R. CIV. P. 72(b)(2); *see Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).

SIGNED this 1st day of March, 2013.



ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE